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TAGS: [ETTC](#) [PREL](#) [EFIN](#) [KTFN](#) [PTER](#) [UNSC](#)
SUBJECT: UN/1267 SANCTIONS: COMMITTEE DISCUSSES DELISTING
PROCEDURES WITH DENMARK, LIECHTENSTEIN, SWEDEN, AND
SWITZERLAND

Classified By: Counselor Molly Phee, for reasons 1.4 (B) and (D)

¶1. (C) SUMMARY: Security Council representatives to the 1267 (al-Qaeda/Taliban) Sanctions Committee met May 5 with representatives of Denmark, Liechtenstein, Sweden and Switzerland, at their request, to discuss the Committee's procedures for lifting sanctions against individuals (or, delisting procedures). The four European delegations suggested, as a way to improve the Committee's "due process," that the Council appoint an advisory panel to interact with individuals seeking delisting and to provide the Committee with recommendations on delisting requests. They argued that the creation of such a panel would mitigate the increasing legal challenges in Europe to the imposition by the Security Council of individual sanctions, and address the criticism that the 1267 sanctions regime deprives sanctioned individuals of fundamental rights. USUN, France, Russia, the UK, and Italy made clear that they did not support the idea of a panel, recalling that the Security Council had established a Focal Point in December 2006 to address these concerns, and noting that the Security Council's use of targeted individual sanctions is based on considered Council judgments that such individuals have engaged in behavior contrary to international peace and security. Indonesia recommended that the Committee positively consider the proposal. END SUMMARY.

¶2. (C) The 1267 (al-Qaeda/Taliban) Sanctions Committee met in a formal session on May 5 in response to a request from the missions of Denmark, Liechtenstein, Sweden and Switzerland to discuss the Committee's procedures for lifting sanctions against individuals ("delisting procedures"). Liechtenstein PermRep Christian Wenaweser delivered a statement on behalf of the four delegations, indicating that the implementation of the 1267 sanctions regime had been of concern to their delegations over the past several years due to increasing legal challenges in Europe to the Council's imposition of the individual sanctions. Wenaweser argued that these legal challenges pose a serious risk to the effective implementation of the Council's sanctions regimes. (Note: The individual sanctions consist of an international assets freeze, travel ban, and arms embargo on listed parties. Prominent critics, such as the Advocate General of the European Court of Justice, argue that in imposing individual sanctions, the 1267 Committee denies listed parties their fundamental rights to property, to be heard, and to effective review of their case. End Note.)

¶3. (C) While acknowledging that the Committee had made progress in improving its procedures in a number of areas --

including by establishing a Focal Point for delisting, that is, a mechanism by which sanctioned individuals can directly seek Council delisting action rather than depend on action by a member state -- Wenaweser argued that the Council still had not found an appropriate balance between its efforts to combat the threat of al-Qaeda and the Taliban and the need for "fair and clear procedures" for sanctions on individuals, in particular those procedures related to delisting. To this end, Wenaweser suggested that the Council appoint an advisory panel to provide the Committee (which is a subsidiary body of the Council) with recommendations on delisting requests. This panel could engage in dialogue with the individual seeking delisting and provide an independent review of the case, thereby improving the perception of "due process" in the sanctions regime. However, Wenaweser explained, as an advisory body the panel's recommendations would not prejudice the final decision of the Committee. Wenaweser underscored that the proposal was intended to strengthen the implementation of sanctions regime in the long run, and not to undermine the regime or the authority of the Council.

¶4. (C) In response to Wenaweser's briefing, Russia recalled that the 1267 regime is a universal tool for combating al-Qaeda and the Taliban, albeit an imperfect one, and its success depends on the full implementation of the sanctions by member states. The Focal Point had been a successful innovation, and a number of delistings in the 1267 Committee and in other sanctions committees had resulted from requests to the Focal Point. The Committee would continue to find ways to improve its work but, in Russia's view, many of the problems states faced with implementation could be resolved by developing procedures for listing and delisting requests at the national level.

¶5. (C) France noted that although sanctions have an impact on certain rights of individuals, they are fundamentally political measures, not legal measures. The French representative added that there are various ways in which the Committee can respond to the criticisms of the sanctions regime, including by developing further humanitarian exemptions or fine-tuning its procedures. But the fundamental problem with the proposed advisory panel is that in the act of reviewing a decision of the Council, the panel would undermine the Council's authority.

¶6. (C) USUN thanked the representatives for bringing their concerns and proposals to the Committee, and assured them that the Committee was involved in an active dialogue about improving its work. The Council would strive, as it had done in previous resolutions, to strengthen efforts to outline fair and clear procedures in the upcoming resolution to renew the mandate of the Monitoring Team. However, the United States does not consider it appropriate to subject the decisions of the Council or its committees to review by a group of non-Council individuals. The Committee has the responsibility to preserve its Charter authority and defend the decisions of the Council.

¶7. (C) Italy assured the four delegations that the Committee constantly considered how to improve the Committee's procedures and that the Council took this question seriously. The Council would need to find the right balance between ensuring individual rights and combating terrorism. The Italian representative argued, however, that the Committee is not the appropriate forum to have a discussion on how to do this. The UK also stated its view that while the Committee would rightly continue to improve its procedures, it would not support the appointment of an advisory panel to opine on Council decisions.

¶8. (C) Belgium noted that the sanctions regime should continue to be improved, and in particular the list of sanctioned persons and entities should better reflect the threat it was created to address. The list needed more frequent updating to ensure that the regime remained relevant

over the long-term.

¶9. (C) Costa Rica and Panama intervened briefly to support Wenaweser's point that the Committee should continue to improve its procedures to take into account the human rights of the sanctioned parties. South Africa stated that although the Committee had made progress in improving its procedures, this progress was not sufficient. South Africa did not doubt the legitimacy of the Council's measures, but asserted that the Committee's lack of transparency and fair and clear procedures undermined the regime's legitimacy.

¶10. (C) Indonesia recommended that the Committee consider the European proposal positively, arguing that the general membership of the UN believed that the balance between providing security and ensuring the respect for individual rights had not been achieved in the regime. The appointment of a review panel would inspire greater confidence in the general UN membership in the decisions of the Committee.
Khalilzad